

MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY

United States District Court		District <u>of Guam</u>
Name (under which you were convicted): <u>OK Park</u>		Docket or Case No.: <u>03-00058-003</u>
Place of Confinement: <u>Guam</u>		Prisoner No.: <u>CV-07-00025</u>
<div style="display: flex; justify-content: space-between;"> UNITED STATES OF AMERICA Movant (include name under which you were convicted) </div> <div style="text-align: center; margin-top: 10px;">v. <u>OK Park</u></div>		

MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging: _____

District Court of Guam

(b) Criminal docket or case number (if you know): 03-00058-003

2. (a) Date of the judgment of conviction (if you know): December 10, 2004

(b) Date of sentencing: December 8, 2004

3. Length of sentence: Six months and fifteen days imprisonment

4. Nature of crime (all counts): Conspiracy To Traffic In

Counterfeit Merchandise

FILED
DISTRICT COURT OF GUAM

AUG 30 2007 *mb*

JEANNE G. QUINATA
Clerk of Court

5. (a) What was your plea? (Check one)

(1) Not guilty ☒ (2) Guilty ☐ (3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? _____

6. If you went to trial, what kind of trial did you have? (Check one) Jury ☒ Judge only ☐

ORIGINAL

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☐ No ☒
8. Did you appeal from the judgment of conviction? Yes ☒ No ☐
9. If you did appeal, answer the following:

(a) Name of court: Ninth Circuit Court of Appeals

(b) Docket or case number (if you know): 04-10692

(c) Result: Affirmed

(d) Date of result (if you know): January 20, 2006

(e) Citation to the case (if you know): None - Unpublished

(f) Grounds raised: Insufficiency of Evidence

- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No ☐

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: Denied

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: Insufficiency of Evidence

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☐

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: _____

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: MY DUE PROCESS RIGHTS UNDER THE FIFTH AMENDMENT REQUIRES THAT I RECEIVE CREDIT FOR TIME AT LIBERTY.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

1. I WAS ON PRE-TRIAL RELEASE. AFTER MY CONVICTION AND SENTENCE MY COUNSEL REQUESTED THAT I REMAIN ON BOND WHILE APPEALING MY CONVICTION. ON FEBRUARY 9, 2005, THE NINTH CIRCUIT COURT OF APPEALS DENIED MY MOTION TO REMAIN ON BOND.

2. I HAVE BEEN TOLD TO REPORT TO THE UNITED STATES MARSHALL'S OFFICE FOR WHAT I ASSUME IS THE BEGINNING OF MY INCARCERATION.

3. SINCE FEBRUARY 9, 2005, I HAVE EFFECTIVELY BEEN IMPRISONED FOR THE FOLLOWING REASONS: I HAVE BEEN a) REQUIRED TO REPORT TO BOTH THE FEDERAL CUSTOMS ENFORCEMENT AGENCY AS WELL AS MY PROBATION OFFICER ON A REGULAR BASIS, BOTH ON THE PHONE AND IN PERSON; b) REQUIRED TO SUBMIT TO THE URINALYSIS TESTING ON A RANDOM BASIS; - (FACTS CONTINUED ON GROUP TWO)-

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: Issue was not ripe. Still reporting in. Not required to begin incarceration as of that date.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO: UNDER THE COMMON LAW THE GOVERNMENT IMPERMISSIBLY POSTPONED THE COMMENCEMENT OF MY SENTENCE, THEREBY ENTITLING ME TO CREDIT FOR TIME AT LIBERTY.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(CONTINUED FROM GROUND ONE) - c) REQUIRED TO SUBMIT MONTHLY REPORTS TO MY PROBATION OFFICER; d) REQUIRED TO ABIDE BY ALL TERMS AND CONDITIONS OF MY RELEASE; e) UNABLE TO GET A "FRESH START" ON MY LIFE.

4. I BELIEVE THE GOVERNMENT, THE UNITED STATES PROBATION AND MARSHAL'S SERVICE HAVE ACTED NEGLIGENTLY, WITH GROSS NEGLIGENCE, RECKLESSLY, AND/OR INTENTIONALLY IN NOT INCARCERATING ME IN A TIMELY MANNER.

5. THE REPORTING TO FEDERAL CUSTOMS WAS BY PHONE THREE TIMES PER WEEK UP UNTIL APPROXIMATELY MAY 16, 2007.

(b) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: SEE GROUND ONE.

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: THE GOVERNMENT HAS WAIVED JURISDICTION OF ITS RIGHT TO EXECUTE MY SENTENCE.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE FACTS FOR GROUND ONE, CONTINUED IN GROUND TWO.

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: SEE GROUND ONE.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND FOUR: THE GOVERNMENT IS ESTOPPED FROM EXECUTING MY SENTENCE.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

SEE FACTS FOR GROUND ONE, CONTINUED IN GROUND TWO.

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: SEE GROUND ONE.

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☐ No ☐
If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: _____

(b) At arraignment and plea: _____

(c) At trial: _____

(d) At sentencing: _____

(e) On appeal: _____

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☐

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

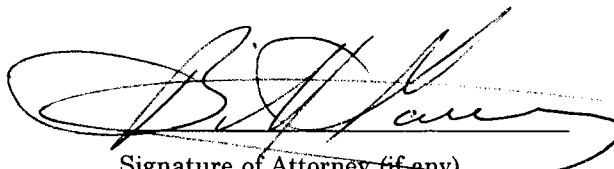
Marshall's office has informed my counsel no earlier than August 30, 2007 that I must report to begin my incarceration

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: To order
that I must not serve any period of
incarceration or home confinement (additional) 6 1/2 months,
 or any other relief to which movant may be entitled.


 Signature of Attorney (if any)
 William Gauras

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct,
~~and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on~~
(month, date, year).

Executed (signed) on AUG 130 107 (date).


 Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not
 signing this motion. _____

IN FORMA PAUPERIS DECLARATION

 [Insert appropriate court]

William Gavras

UNITED STATES DISTRICT COURT

District of GUAM

UNITED STATES OF AMERICA
V.

JUDGMENT IN A CRIMINAL CASE

OK PARK

Case Number: CR-03-00058-003

USM Number: 00658-093

WILLIAM GAVRAS, Retained Counsel
Defendant's Attorney

THE DEFENDANT:

- ☐ pleaded guilty to count(s) _____
- ☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.
- ☒ was found guilty on count(s) I
after a plea of not guilty.

FILED
DISTRICT COURT OF GUAM
DEC 10 2004
MARY L. M. MORAN
CLERK OF COURT

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18: 2, 371, and 2320	Conspiracy to Traffic In Counterfeit Merchandise	Nov. 2002	I

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☒ The defendant has been found not guilty on count(s) II
- ☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution the defendant must notify the court and United States attorney of material changes in economic circumstances.

DECEMBER 8, 2004

Date of Imposition of Judgment

[Signature]

Signature of Judge

A. WALLACE TASHIMA, DESIGNATED JUDGE

Name and Title of Judge

Dec. 10, 2004

Date

A-46

DEFENDANT: OK PARK
CASE NUMBER: CR-03-00058-003

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

SIX MONTHS AND FIFTEEN DAYS

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☒ The defendant shall surrender to the United States Marshal for this district within 10 days:

☐ at _____ ☐ a.m. ☐ p.m. on _____

☒ upon notification by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons within 10 days:

☐ before 2 p.m. on _____

☒ upon notification by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: OK PARK
CASE NUMBER: CR-03-00058-003

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

TWO YEARS

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: OK PARK
CASE NUMBER: CR-03-00058-003

ADDITIONAL SUPERVISED RELEASE TERMS

1. DEFENDANT SHALL SERVE THE FIRST SIX MONTHS AND FIFTEEN DAYS IN HOME DETENTION OR HOME CONFINEMENT, SUBJECT TO ELECTRONIC MONITORING. THE DEFENDANT SHALL PAY ALL OR PART OF THE COSTS ASSOCIATED WITH THE PROGRAM BASED ON HER ABILITY TO PAY AS DETERMINED BY THE PROBATION OFFICE.
2. DEFENDANT SHALL COMPLY WITH THE STANDARD CONDITIONS OF SUPERVISED RELEASE AS SET FOR THE BY THE PROBATION OFFICE.
3. DEFENDANT SHALL NOT USE OR POSSESS ILLEGAL CONTROLLED SUBSTANCES AND SHALL SUBMIT TO ONE URINALYSIS WITHIN 15 DAYS AFTER RELEASE FROM IMPRISONMENT AND TO TWO MORE URINALYSIS THEREAFTER AS ORDERED BY THE U.S. PROBATION OFFICE.
4. DEFENDANT SHALL PARTICIPATE IN ANY PROGRAM OF SUBSTANCE ABUSE, REQUIRED BY THE PROBATION OFFICE, WHICH MAY INCLUDE DRUG TESTING. THE DEFENDANT SHALL ALSO MAKE CO-PAYMENT FOR THE PROGRAM AT A RATE TO BE DETERMINED BY THE PROBATION OFFICER.
5. DEFENDANT SHALL OBTAIN AND MAINTAIN GAINFUL EMPLOYMENT AS REPORTED TO AND APPROVED BY THE PROBATION OFFICER.

DEFENDANT: OK PARK
 CASE NUMBER: CR-03-00058-003

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$ 2,000.00	\$

- ☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case*(AO 245C) will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ _____	\$ _____
---------------	-----------------	-----------------

- ☐ Restitution amount ordered pursuant to plea agreement \$ _____
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: OK PARK
CASE NUMBER: CR-03-00058

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 2,100.00 due immediately, balance due
- ☐ not later than _____, or
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

Defendant ordered to pay the \$100.00 Special Assessment Fee immediately after sentencing.

Defendant also ordered to pay a \$2,000.00 Fine, which is to be paid based on the payment schedule set by the U.S. Probation Office.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

DEFENDANT: OK PARK
CASE NUMBER: CR-03-00058-003
DISTRICT: GUAM

STATEMENT OF REASONS

(Not for Public Disclosure)

☒ THE COURT ADOPTS THE PRESENTENCE REPORT AND GUIDELINE APPLICATIONS WITHOUT CHANGE.

OR

☐ THE COURT ADOPTS THE PRESENTENCE REPORT AND GUIDELINE APPLICATIONS BUT WITH THESE CHANGES: (Use Page 3, if necessary.)

☐ Chapter Two of the U.S.S.G. Manual determinations by court (including changes to base offense level or specific offense characteristics):

☐ Chapter Three of the U.S.S.G. Manual adjustment determinations by court (including changes to victim-related adjustments, role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):

☐ Chapter Four of the U.S.S.G. Manual determinations by court (including changes to criminal history category or scores, career offender, or criminal livelihood determinations):

☐ THE COURT ADOPTS THE PRESENTENCE REPORT WITH THESE COMMENTS OR FINDINGS (including comments or factual findings concerning certain information in the presentence report that the Federal Bureau of Prisons may rely on when it makes inmate classification, designation, or programming decisions. Specify court comments or findings, including paragraphs in the presentence report.) (Use Page 3, if necessary.)

GUIDELINE RANGE DETERMINED BY THE COURT (BEFORE DEPARTURES):

Total Offense Level: 11

Criminal History Category: II

Imprisonment Range: 10 to 16 months

Supervised Release Range: 2 to 3 years

Fine Range: \$ 2,000.00 to \$ 20,000.00

☐ Fine waived or below the guideline range because of inability to pay.

☒ THE SENTENCE IS WITHIN THE GUIDELINE RANGE, THAT RANGE DOES NOT EXCEED 24 MONTHS, AND THE COURT FINDS NO REASON TO DEPART.

OR

☐ THE SENTENCE IS WITHIN A GUIDELINE RANGE, THAT RANGE EXCEEDS 24 MONTHS, AND THE SPECIFIC SENTENCE IS IMPOSED FOR THESE REASONS: (Use Page 3, if necessary.)

DEFENDANT: OK PARK
CASE NUMBER: CR-03-00058-003
DISTRICT: GUAM

STATEMENT OF REASONS

(Not for Public Disclosure)

RESTITUTION DETERMINATIONS

Total Amount of Restitution: \$ 0

- ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
- ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B).
- ☐ For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweigh the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
- ☐ Restitution is not ordered for other reasons:
- ☐ Partial restitution is ordered under 18 U.S.C. § 3663(c) for these reasons:

DEPARTURE (Check all that apply)

- ☐ The sentence departs below the guideline range for the following reasons; or
- ☐ The sentence departs above the guideline range for the following reasons:

Pursuant to a Plea Agreement

- ☐ based on 5K1.1 motion of the government based on the defendant's substantial assistance;
- ☐ based on a government motion pursuant to an early disposition program;
- ☐ based on a binding plea agreement for departure which the court has accepted (cite below reason, if applicable);
- ☐ based on a plea agreement which cites the below reason for departure, which the court finds to be justified; or
- ☐ based on a plea agreement which states that the government will not oppose a defense departure motion and cites the below reason.

Pursuant to a Motion Not Addressed in a Plea Agreement

- ☐ pursuant to a 5K1.1 motion of the government based on the defendant's substantial assistance;
- ☐ pursuant to a government motion based on the below reason for departure; or
- ☐ pursuant to a defense motion based on the below reason for departure to which the government has not objected; or
- ☐ pursuant to a defense motion based on the below reason for departure to which the government has objected.
- ☐ Other than plea agreement or motion by the parties based on the below reason for departure.

Reason(s) for Departure

- | | | |
|---|---|--|
| <input type="checkbox"/> 4A1.3 Criminal History Adequacy (explain) | <input type="checkbox"/> 5K2.8 Extreme Conduct | <input type="checkbox"/> 5K2.16 Voluntary Disclosure of Offense |
| <input type="checkbox"/> 5K2.0 Aggravating or Mitigating Circumstances (explain): | <input type="checkbox"/> 5K2.9 Criminal Purpose | <input type="checkbox"/> 5K2.17 High-Capacity Semiautomatic Firearm |
| <input type="checkbox"/> 5K2.1 Death | <input type="checkbox"/> 5K2.10 Victim's Conduct | <input type="checkbox"/> 5K2.18 Violent Street Gang |
| <input type="checkbox"/> 5K2.2 Physical Injury | <input type="checkbox"/> 5K2.11 Lesser Harm | <input type="checkbox"/> 5K2.20 Aberrant Behavior |
| <input type="checkbox"/> 5K2.3 Extreme Psychological Injury | <input type="checkbox"/> 5K2.12 Coercion and Duress | <input type="checkbox"/> 5K2.21 Dismissed and Uncharged Conduct |
| <input type="checkbox"/> 5K2.4 Abduction or Unlawful Restraint | <input type="checkbox"/> 5K2.13 Diminished Capacity | <input type="checkbox"/> 5K2.22 Age or Health of Sex Offenders |
| <input type="checkbox"/> 5K2.5 Property Damage or Loss | <input type="checkbox"/> 5K2.14 Public Welfare | <input type="checkbox"/> 5K2.23 Discharged Terms of Imprisonment |
| <input type="checkbox"/> 5K2.6 Weapons and Dangerous Instruments | | <input type="checkbox"/> 5K3.1 Early Disposition, "fast-track" Program |
| <input type="checkbox"/> 5K2.7 Disruption of Government Function | | |
| <input type="checkbox"/> Other (e.g., 2B1.1 commentary, 5H1.1-5H1.6 or 5H1.11)(explain and state guideline and/or statutory basis). (Use Page 3, if necessary.) | | |

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DEFENDANT: OK PARK
CASE NUMBER: CR-03-00058-003
DISTRICT: GUAM

STATEMENT OF REASONS
(Not for Public Disclosure)

ADDITIONAL PRESENTENCE REPORT AND GUIDELINE APPLICATION CHANGES
(If necessary.)


SPECIFIC SENTENCE IS IMPOSED FOR THESE REASONS
(If necessary.)

ADDITIONAL COMMENTS OR FINDINGS CONCERNING INFORMATION IN PRESENTENCE REPORT
(If necessary.)

ADDITIONAL REASONS FOR DEPARTING FROM THE GUIDELINE RANGE
(If necessary.)

Defendant's Soc. Sec. No.: RC 4673
Defendant's Date of Birth: 1954
Defendant's Residence Address: RC
Guam 96913
Defendant's Mailing Address: RC

DECEMBER 8, 2004
Date of Imposition of Judgment


Signature of Judge

A. WALLACE TASHIMA, DESIGNATED JUDGE
Name and Title of Judge

Dec - 10, 2004
Date Signed

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